IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT
**THE HON'BLE MR JUSTICE A.GOPAL REDDY**
**WRIT PETITION NO: 16616 of 2004**

Between:
Sri Padmavathi Boiled Dall and Flour Mill Rep by its Managing Partner,
T. Radha Krishna Murthy, S/o. Anjaneyulu, aged 75 years, Industrial
Development Area, Chilakalapudi, Machilipatnam, Krishna District

**... PETITIONER**

AND

The Asst. Provident Fund Commissioner, Employees Provident Fund, Sub
Regional Office, Krishna Nagar, Guntur.

**...RESPONDENT**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, or order or direction more particularly in the nature of Writ of Mandamus declaring the action of respondents in seeking to recover Rs. 1,01698/- from the petitioner by returning the review application vide proceedings dated 18-8-2004 as unconstitutional illegal and consequently direct the respondents not to resort to recover the money from the petitioner after declaring that the R1 has not properly passed orders on 18-8-2004 and petitioner is not bound to pay PF and surcharge penalty as sought by the respondent No. 1 and R1 is bound to consider papers filed by the advocate of petitioner on 1-7-2004 and give an opportunity of hearing.

**Counsel for the Petitioner: MR.K.S.MURTHY**

**Counsel for the Respondent: MR. R.N. REDDY**

The Court at the admission stage made the following:

**ORDER:**

Through the impugned proceedings, petitioner was assessed under Section 7-A of the Employee's Provident Funds and Miscellaneous Provisions Act, 1952, (for short 'the Act'). Accordingly, liability was determined by proceedings dated
05-11-2003. Aggrieved by the same, petitioner filed review petition under Section 7-B of the Act, which was dismissed on
05-02-2004. Questioning the same, petitioner filed W.P.No.7156 of 2004. This Court set aside the order in the review petition rejecting the review dated 05-02-2004 and directed the respondent to rehear the matter after giving due opportunity to the petitioner or his counsel on a particular date and pass appropriate orders after taking into consideration the submissions made and the material produced by the petitioner.

2. In obedience to the order passed by this Court in W.P.No.7156 of 2004, necessary notice has been issued to the petitioner and he was called upon to

produce necessary evidence. The petitioner appeared before the authority on the relevant date and produced the wage register for 2002-03, 2003-04 and ledger for the said years. After completion of the enquiry, the authority passed orders on 2/4-06-2004 confirming the order passed under Section 7-A of the Act, dated 05-11-2003. Questioning the same, the present Writ Petition has been filed.

3. Learned counsel for the petitioner contends that the petitioner requested the advocate to prepare review application and submit appropriate arguments and legal issues. Even before the advocate prepared the same and argued the matter, notice was given to the petitioner and he, being aged 75 years produced the records without knowing and in effect the petitioner was given an opportunity as directed by this Court. I see no force in the submission made by the learned counsel for petitioner for the reason that it is not a case where the petitioner has engaged an advocate, who filed vakalat and when he sought time to file necessary grounds, the same was rejected, and even before the advocate could prepare the necessary documents, summons were received and petitioner appeared before the authority on the relevant date. In view of the same, contemplating to engage an

advocate to prepare review cannot be a ground to come to a conclusion that the petitioner has not been provided with reasonable opportunity. Petitioner, if aggrieved by the orders passed by the Court, can file statutory appeal against the impugned order including the coverage of the Act and it is for the appellate authority to consider the same and decide the matter.

4. Interest of justice would be met if the petitioner deposits 50% of the amount so demanded within a period of four weeks from the date of receipt of a copy of this order and produce the same before the appellate authority. The appellate authority shall not insist for deposit of the 75% of the amount for entertaining the appeal. The amount so deposited will be subject to the orders that would be passed in the appeal, if any, filed by the petitioner and till the appeal is disposed of, no coercive steps shall be taken for recovery of the amounts under the impugned order.

The Writ Petition is accordingly disposed of. No costs.

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**A. GOPAL REDDY, J**

September 16, 2004
**MRR**

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To:

1. The Asst. Provident Fund Commissioner, Employees Provident Fund,
Sub Regional Office, Krishna Nagar, Guntur.
2 Two C.D. Copies.